

## Assembly Bill No. 2879

### CHAPTER 75

An act to amend Section 17039 of, and to add Section 17052.2 to, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor July 5, 2000. Filed with  
Secretary of State July 5, 2000.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 2879, Jackson. Income Taxes: credit: teacher retention.

The Personal Income Tax Law authorizes various credits against the taxes imposed by that law.

This bill would allow a credit for each taxable year beginning on or after January 1, 2000, to credentialed teachers in an amount equal to specified amounts depending upon years of service as a teacher.

This bill would take effect immediately as a tax levy.

*The people of the State of California do enact as follows:*

SECTION 1. The Legislature finds and declares all of the following:

(a) Roughly 50 percent of teachers leave the profession by the fifth year of teaching.

(b) It is the intent of the Legislature to encourage teachers to remain in the profession by providing a combination of tax and retirement benefits.

(c) This tax credit is designed to encourage teacher retention and to compensate teachers for unreimbursed expenses related to professional development and classroom instruction such as materials and supplies.

SEC. 2. Section 17039 of the Revenue and Taxation Code is amended to read:

17039. (a) Notwithstanding any provision in this part to the contrary, for the purposes of computing tax credits, the term "net tax" means the tax imposed under either Section 17041 or 17048 plus the tax imposed under Section 17504 (relating to lump-sum distributions) less the credits allowed by Section 17054 (relating to personal exemption credits) and any amount imposed under paragraph (1) of subdivision (d) and paragraph (1) of subdivision (e) of Section 17560. Notwithstanding the preceding sentence, the "net tax" shall not be less than the tax imposed under Section 17504 (relating to the separate tax on lump-sum distributions), if any. Credits shall be allowed against "net tax" in the following order:

(1) Credits that do not contain carryover or refundable provisions, except those described in paragraphs (4) and (5).

(2) Credits that contain carryover provisions but do not contain refundable provisions.

(3) Credits that contain both carryover and refundable provisions.

(4) The minimum tax credit allowed by Section 17063 (relating to the alternative minimum tax).

(5) Credits for taxes paid to other states allowed by Chapter 12 (commencing with Section 18001).

(6) Credits that contain refundable provisions but do not contain carryover provisions.

The order within each paragraph shall be determined by the Franchise Tax Board.

(b) Notwithstanding the provisions of Sections 17061 (relating to refunds pursuant to the Unemployment Insurance Code) and 19002 (relating to tax withholding), the credits provided in those sections shall be allowed in the order provided in paragraph (6) of subdivision (a).

(c) (1) Notwithstanding any other provision of this part, no tax credit shall reduce the tax imposed under Section 17041 or 17048 plus the tax imposed under Section 17504 (relating to the separate tax on lump-sum distributions) below the tentative minimum tax, as defined by Section 17062, except the following credits, but only after allowance of the credit allowed by Section 17063:

(A) The credit allowed by Section 17052.2 (relating to teacher retention tax credit).

(B) The credit allowed by former Section 17052.4 (relating to solar energy).

(C) The credit allowed by former Section 17052.5 (relating to solar energy).

(D) The credit allowed by Section 17052.5 (relating to solar energy).

(E) The credit allowed by Section 17052.12 (relating to research expenses).

(F) The credit allowed by former Section 17052.13 (relating to sales and use tax credit).

(G) The credit allowed by Section 17052.15 (relating to Los Angeles Revitalization Zone sales tax credit).

(H) The credit allowed by Section 17053.5 (relating to the renter's credit).

(I) The credit allowed by former Section 17053.8 (relating to enterprise zone hiring credit).

(J) The credit allowed by former Section 17053.10 (relating to Los Angeles Revitalization Zone hiring credit).

(K) The credit allowed by former Section 17053.11 (relating to program area hiring credit).



(L) For each taxable year beginning on or after January 1, 1994, the credit allowed by former Section 17053.17 (relating to Los Angeles Revitalization Zone hiring credit).

(M) The credit allowed by Section 17053.33 (relating to targeted tax area sales or use tax credit).

(N) The credit allowed by Section 17053.34 (relating to targeted tax area hiring credit).

(O) The credit allowed by Section 17053.49 (relating to qualified property).

(P) The credit allowed by Section 17053.70 (relating to enterprise zone sales or use tax credit).

(Q) The credit allowed by Section 17053.74 (relating to enterprise zone hiring credit).

(R) The credit allowed by Section 17054 (relating to credits for personal exemption).

(S) The credit allowed by Section 17057 (relating to clinical testing expenses).

(T) The credit allowed by Section 17058 (relating to low-income housing).

(U) The credit allowed by Section 17061 (relating to refunds pursuant to the Unemployment Insurance Code).

(V) Credits for taxes paid to other states allowed by Chapter 12 (commencing with Section 18001).

(W) The credit allowed by Section 19002 (relating to tax withholding).

(2) Any credit that is partially or totally denied under paragraph (1) shall be allowed to be carried over and applied to the net tax in succeeding taxable years, if the provisions relating to that credit include a provision to allow a carryover when that credit exceeds the net tax.

(d) Unless otherwise provided, any remaining carryover of a credit allowed by a section that has been repealed or made inoperative shall continue to be allowed to be carried over under the provisions of that section as it read immediately prior to being repealed or becoming inoperative.

(e) (1) Unless otherwise provided, if two or more taxpayers (other than husband and wife) share in costs that would be eligible for a tax credit allowed under this part, each taxpayer shall be eligible to receive the tax credit in proportion to his or her respective share of the costs paid or incurred.

(2) In the case of a partnership, the credit shall be allocated among the partners pursuant to a written partnership agreement in accordance with Section 704 of the Internal Revenue Code, relating to partner's distributive share.

(3) In the case of a husband and wife who file separate returns, the credit may be taken by either or equally divided between them.

(f) Unless otherwise provided, in the case of a partnership, any credit allowed by this part shall be computed at the partnership level, and any limitation on the expenses qualifying for the credit or limitation upon the amount of the credit shall be applied to the partnership and to each partner.

(g) (1) With respect to any taxpayer that directly or indirectly owns an interest in a business entity that is disregarded for tax purposes pursuant to Section 23038 and any regulations thereunder, the amount of any credit or credit carryforward allowable for any taxable year attributable to the disregarded business entity shall be limited in accordance with paragraphs (2) and (3).

(2) The amount of any credit otherwise allowed under this part, including any credit carryover from prior years, that may be applied to reduce the taxpayer's "net tax," as defined in subdivision (a), for the taxable year shall be limited to an amount equal to the excess of the taxpayer's regular tax (as defined in Section 17062), determined by including income attributable to the disregarded business entity that generated the credit or credit carryover, over the taxpayer's regular tax (as defined in Section 17062), determined by excluding the income attributable to that disregarded business entity. No credit shall be allowed if the taxpayer's regular tax (as defined in Section 17062), determined by including the income attributable to the disregarded business entity, is less than the taxpayer's regular tax (as defined in Section 17062), determined by excluding the income attributable to the disregarded business entity.

(3) If the amount of a credit allowed pursuant to the section establishing the credit exceeds the amount allowable under this subdivision in any taxable year, the excess amount may be carried over to subsequent taxable years pursuant to subdivisions (c) and (d).

SEC. 3. Section 17052.2 is added to the Revenue and Taxation Code, to read:

17052.2. (a) For each taxable year beginning on or after January 1, 2000, there shall be allowed as a credit against the "net tax" (as defined by Section 17039) to a credentialed teacher an amount equal to the amount determined in subdivision (b).

(b) The amount of the credit shall be the lesser of the amounts computed under paragraph (1) or (2):

(1) In the case of any credentialed teacher who has, as of the last day of the taxable year:

(A) Completed at least four but less than six years of service as a credentialed teacher, the credit shall be two hundred fifty dollars (\$250).

(B) Completed at least six but less than 11 years of service as a credentialed teacher, the credit shall be five hundred dollars (\$500).



(C) Completed at least 11 but less than 20 years of service as a credentialed teacher, the credit shall be one thousand dollars (\$1,000).

(D) Completed 20 or more years of service as a credentialed teacher, the credit shall be one thousand five hundred dollars (\$1,500).

(E) For purposes of determining years of service, years of service performed as a teacher in a qualified education institution, which otherwise meets the criteria specified in subdivision (d) except that the qualified education institution is not located in this state, in another state shall qualify for each year the teacher was credentialed by the public education agency in that state.

(2) In no event shall the amount of credit allowed in any taxable year under this section exceed an amount equal to 50 percent of the amount of tax that would be imposed on the taxpayer's income attributable to service as a teacher. This limitation shall be determined as follows:

(A) Multiply by 50 percent the difference between the amount computed under subparagraph (B) and the amount computed under subparagraph (C).

(B) Determine the amount of tax on total income as follows:

(i) The taxpayer's total adjusted gross income from all sources, less either the standard deduction allowed under Section 17073.5 or those itemized deductions allowed to the taxpayer under this part.

(ii) Compute the amount of tax that would be imposed under Section 17041 or 17048 on the amount computed under clause (i).

(iii) Subtract from the amount of tax determined under clause (ii) any credits allowed under Chapter 2 (commencing with Section 17041).

(C) Determine the amount of tax on income from sources other than that received as compensation for services as a teacher as follows:

(i) The taxpayer's total adjusted gross income from all sources, less all of the following:

(I) The amount received as compensation for services as a teacher for the taxable year.

(II) Either the standard deduction allowed under Section 17073.5 or those itemized deductions allowed to the taxpayer under this part.

(ii) Compute the amount of tax that would be imposed under Section 17041 or 17048 on the amount computed under clause (i).

(iii) Subtract from the amount of tax determined under clause (ii) any credits allowed under Chapter 2 (commencing with Section 17041).

(3) For purposes of this subdivision, "compensation for services as a teacher" includes only those amounts received with respect to services performed as a credentialed teacher, but does not include pensions or other deferred compensation.

(c) “Credentialed teacher” means a person who holds a preliminary or professional clear credential as determined by the Commission on Teacher Credentialing pursuant to Article 1 (commencing with Section 44200) of Chapter 2 of Part 25 of Division 2 of Title 2 of the Education Code and who teaches at a qualifying educational institution.

(d) “Qualifying educational institution” means any elementary, secondary, or vocational-technical school located in this state providing education for kindergarten, grades 1 to 12, inclusive, or any part thereof. “Qualifying educational institution” includes an agency or instrumentality of the federal government providing education for grades kindergarten, grades 1 to 12, inclusive, or any part thereof, at any location within this state, including an Indian reservation or a military installation located within the geographical borders of this state, where a credentialed teacher is employed by the federal government or an agency or instrumentality thereof. “Qualifying educational institution” includes any elementary, secondary, vocational technical school located in California, that files an affidavit pursuant to Section 33190 and 33191 of the Education Code, and provides education for kindergarten and grades 1 to 12, inclusive, or any part thereof.

SEC. 4. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

